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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,755	12/28/2001	David Harriman	42390.P13766	3565

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EXAMINER

PHILPOTT, JUSTIN M

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,755

Applicant(s)

HARRIMAN, DAVID

Examiner

Justin M. Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,6,8,10,11,13 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,8,10,11,13 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's argument filed January 24, 2005 has been fully considered but it is not persuasive.

Specifically, applicant argues (pages 6-8) that Wei teaches message groups that refer to a destination, whereas applicant's invention comprises message groups that "refer to different kinds or categories of messages" and not to a destination. Accordingly, applicant argues that Wei does not teach this particular aspect of applicant's invention. However, applicant's claims are absent of such a specific limitation. That is, applicant's claims fail to distinguish applicant's invention from such a teaching from Wei, and specifically, applicant's claims do not recite "[message groups that] refer to different kinds or categories of messages [as apposed to a destination]". Thus, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., message groups that refer to different kinds or categories of messages as opposed referring to a destination) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, applicant's argument is not persuasive.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 5, 6, 8, 10, 11, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,515,967 to Wei et al. in view of U.S. Patent No. 4,058,672 to Crager et al.

Regarding claims 1, 6 and 11, Wei teaches an apparatus comprising a data path output unit to output a packet header of a packet relating to a message request transaction with the packet header including: a format field (e.g., combination of 601 and 615 in FIG. 6) to indicate the packet header (e.g., version 601) and further to specify whether the packet is to include data (e.g., MRM message length 615 indicates the length of the message area 511 comprising data, or the amount of data, which implicitly indicates whether the message area includes any data), a subset of a type field (e.g., at least one bit of type 603) to indicate the packet relates to a message request transaction (e.g., see col. 7, lines 38-45), and a message group sub-field (e.g., within MRM sequence number 625) to indicate the packet is associated with one of a plurality of message groups (e.g., see col. 8, lines 8-35 wherein the sequence number corresponds to a specific one of a plurality of message groups G1, G2, etc.).

However, Wei may not specifically disclose the format field indicates the length of the packet header.

Crager teaches various features of packet communications for providing improved capability for packet communications (e.g., see col. 3, line 65 – col. 5, line 53), and specifically, teaches a format field (e.g., Format Field, col. 44, line 45) which indicates the length of the packet header (e.g., header length, col. 44, line 50) (see col. 44, lines 44-50). As discussed above, the teachings of Crager provide features for improved capability for packet communications (e.g., see col. 3, line 65 – col. 5, line 53). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the packet communication teachings of Crager to the packet communication apparatus of Wei in order to provide features for improved capability for packet communications.

Regarding claims 3, 8 and 13, Wei teaches the packet header includes a message code field to indicate message type (e.g., code 605, see col. 7, lines 45-47).

Regarding claims 5, 10 and 15, Wei teaches the message group sub-field (e.g., within MRM sequence number 625) includes bit(s) of: a type field (e.g., see col. 8, lines 9-15 regarding identifying the MRM message comprising sender/receiver requests, etc.), and an extended type field (e.g., see col. 8, lines 24-27 regarding the sequence number identifying specifically which “request” is responsible). While Wei may not specifically disclose the message group sub-field is exactly three-bits comprising one bit from the type field and two bits from the extended type field, it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on Appellant. In re Mason, 87 F.2d 370, 32 USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220

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F.2d 454, 105 USPQ 233 (CCPA 1955); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to construct the message group sub-field with three-bits comprising one bit from the type field and two bits from the extended type field since it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value.

4. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wei in view of Crager, further in view of prior art cited in U.S. Patent No. 4,464,717 to Keeley et al.

Regarding claims 16-18, Wei in view of Crager teach the apparatus and system discussed above regarding claims 3, 8 and 13, and further, Wei teaches a plurality of different message types (e.g., see col. 7, lines 38-45), although Wei may not specifically disclose the message type indicates a correctable error condition. However, Wei specifically discloses that other embodiments may have additional message types depending upon operation needs (e.g., see col. 7, lines 43-45).

The prior art of Keeley discloses well known implementations for processing and communication systems, and specifically, discloses it is well known in the art for a message type to comprise a correctable error condition (e.g., see col. 1, lines 31-35). Also, the the additional teachings of Keeley provide increases in performance and speed (e.g., see col. 2, lines 30-35). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to

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include a correctable error condition as one of the plurality of message types in the apparatus and system of Wei in view of Crager since the prior art of Keeley discloses it is well known in the art for a message type to comprise a correctable error condition and one of ordinary skill in art would advantageously look to the teachings of Keeley to provide increases in performance and speed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 3,735,363 to Beers et al., and U.S. Patent No. 3,680,058 to De Santis et al. disclose it is well known in the art for a message type to comprise a correctable error condition.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Justin M Philpott



ALPUS H. HSU
PRIMARY EXAMINER